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Programme budget for the biennium 1996-1997

Construction of additional conference facilities at Addis Ababa

Report of the Secretary-General

Addendum

Summary

Further to the report of the Secretary-General on the construction of additional conference facilities at Addis Ababa and Bangkok (A/C.5/51/37), the present report seeks to provide further information on the outcome of recent discussions between the United Nations and the contractor at Addis Ababa on the settlement of time delays and financial claims, as well as additional costs arising out of the telephone system contract.

It is estimated that the total project cost would amount to approximately US$ 115,228,494, an increase of $7,651,594 over the appropriation of $107,576,900 approved by the General Assembly.

In this connection, the Secretary-General proposes to apply the interest accrued from the construction-in-progress accounts of the Economic Commission for Africa (ECA) and the Economic and Social Commission for Asia and the Pacific (ESCAP) to offset the increased costs of the Addis Ababa project. The provisional interest at 31 December 1996 accrued to the ECA and ESCAP construction-in-progress accounts amounts to $7,911,373.

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1. In paragraph 11 of his report to the General Assembly on the construction of additional conference facilities at Addis Ababa and Bangkok (A/C.5/51/37), the Secretary-General reported that owing to ongoing discussions with the contractor of the project at Addis Ababa and in view of the potential claim arising from the telephone system contract, preliminary estimates indicated that the final project cost would amount to US$ 114,213,588, an increase of $6,636,688 above the current approved level of the project of $107,576,900.

2. The Secretary-General further reported that during the last week of September 1996, discussions were held between the contractor and the United Nations with the aim of arriving at an agreed settlement of all claims, including time delay and financial claims. Discussions with the contractor continued into March 1997 in an effort to ensure that the settlement of the contractor's claims would remain within the appropriation or at least would not exceed the level of the accrued interest, without resorting to arbitration procedures.

3. The present report brings up to date the information provided in the previous report, detailing recent developments on the negotiations and the revised estimated cost of project completion. Paragraphs 4 through 7 deal with the main construction contract while paragraph 8 addresses a separate anticipated claim in respect of the telephone contract, which is undertaken by another contractor.

4. Following lengthy discussions and a detailed review of the claims of the contractor, a final total settlement of ECU 77.2 million ($94.3 million at May 1997 rates) was proposed by the United Nations and accepted by the contractor on 5 May 1997 through the execution of a signed settlement agreement. It should be noted that in those cases where references have been made to both European Currency Units (ECU) and the dollar equivalent, the exchange rate used is calculated at May 1997 rates.

5. In arriving at the agreed settlement amount, consideration was given not only to the justification and validity of the contractor's claims as reviewed by the quantity surveyor for the project, but also to the significant financial exposure the Organization would have experienced if the case had proceeded to arbitration.

6. The settlement amount comprises the following, of which ECU 67,783,072 ($83,614,577) has already been paid during the course of the project:

(a) ECU 64.7 million for the value of the works;

(b) ECU 10.3 million for fluctuations;

(c) ECU 2.2 million for the contractor's financial claim;

(d) ECU 2.0 million for variations not accounted for in the financial claim and financial charges relating to delays in payment of certified invoices;

(e) Less ECU 2.0 million for liquidated damages.

7. In accordance with the terms of the settlement agreement, the unpaid balance of the agreed settlement, amounting to ECU 9,416,928 ($10,701,055), would be paid in two parts: the first by no later than 9 May 1997, in the sum of ECU 3,194,637 ($3,630,269), for payment of three valuation certificates and cash retention; and the second by no later than 30 September 1997, of the remainder in the sum of ECU 6,222,291 ($7,070,786).

8. In addition to the claims by the contractor of the project, the contractor of the telephone system has indicated its intention to submit a financial claim for extra work and time delays. However, as final acceptance and handover is not expected until the end of the third quarter of 1997, no claim has been received at this time. However, the Secretary-General anticipates that should a claim be submitted by the telephone contractor, the amount could be covered within the estimated final cost of the project. The Secretary-General intends to report further on this matter to the General Assembly at its fifty-second session.

9. In the light of the foregoing, the estimated final cost of the project would amount to $115,228,494 (at the May 1997 exchange rate), subject to settlement of the anticipated telephone claim and variations resulting from exchange rate fluctuations in converting United States dollars to European Currency Units (or other currencies based on invoices received from the architect) at the time of payment. This would be an increase of $7,651,594 (at the May 1997 exchange rate) over the amount of $107,576,900 approved by the General Assembly.

10. As indicated in paragraph 13 of his report, the Secretary-General proposes to apply up to the full amount of interest in the construction-in-progress account to offset the increased costs of the Addis Ababa project. He will report to the General Assembly at its fifty-second session on the outcome of the claim arising out of the telephone system contract. Provisional accounts as at 31 December 1996 indicate interest accrued to the ECA construction account in the amount of $7,808,414. Should it be necessary, the Secretary-General also proposes to utilize the interest accrued in the ESCAP construction-in-progress account amounting to $102,959 (provisional as at 31 December 1996) for any additional costs arising from the construction

project at Addis Ababa, thereby obviating the need for an additional appropriation from the General Assembly for the project. The total interest that would be available to meet additional costs over and above the appropriation of $107,576,900 would be $7,911,373.

11. The General Assembly may therefore wish to take a decision along the following lines:

(a) Note that the total project cost is now estimated at approximately $115 million, subject to settlement of outstanding and anticipated claims and currency fluctuations;

(b) Authorize the Secretary-General to utilize interest accrued in the ECA and ESCAP construction accounts to fund outstanding and anticipated claims and currency fluctuations arising from completion of the construction project at Addis Ababa;

(c) Request the Secretary-General to issue a full report on the construction at Addis Ababa to the Assembly at its fifty-second session in the context of the progress report on construction of additional conference facilities at Addis Ababa.